

D-5

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

April 13, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 03OD-237

Oahu

Amend prior Board Action of March 11, 2005, Item D-1, Quitclaim of State's Interests in a Drainage Easement, Grant of Perpetual, Non-Exclusive Easement, and Construction Right-of-Entry to the City and County of Honolulu, Palolo, Honolulu, Oahu, Tax Map key: (1) 3-4-003:Portions of 10 and 37.

REMARKS:

At its meeting on March 11, 2005, under item D-1, the Land Board authorized a quitclaim of the State's interest in a drainage easement on private property, issuance of a perpetual non-exclusive easement for drainage purposes on State land encumbered by Homestead Lease No. 17, and a construction right-of-entry to the City and County of Honolulu (City) (refer to Exhibit "A"). The State's Homestead Lessee requested the drainage improvements to alleviate flooding that often occurs on the homestead property.

Subsequent to the construction right-of-entry to the City, executed on April 25, 2005, the Lessee raised objections to the proposed alignment for the easement on the State's land because it would hinder the use of the property more than necessary and require the removal of two (2) of the Lessee's trees.

The City has recently proposed a realignment of the drainage easement to the Lessee's satisfaction that follows a path further along a perimeter rock wall on the property, and does not cut across a corner as before, minimizing any land use restrictions for the Lessee (see Exhibit "B").

Staff is requesting the Land Board to amend its prior Board action of March 11, 2005, item D-1, to approve the new alignment for the drainage easement, as shown on the attached Exhibit "B", on a portion of the State's homestead property identified as Tax Map Key: (1) 3-4-003:Portion of 10. Staff is also requesting the Land Board to authorize the issuance of construction right-of-entry covering the above-referenced area, including the easement reserved to the State on parcel 37, pending its conveyance to the City. And further, that said

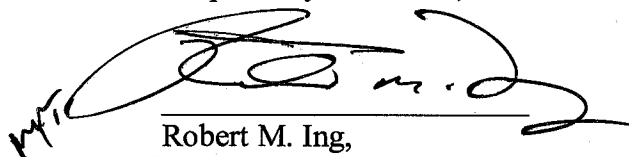
right-of-entry provide authorization for the City to maintain the easement areas following the construction of the drainage system, pending the execution of the State's easement and quitclaim documents.

RECOMMENDATION:

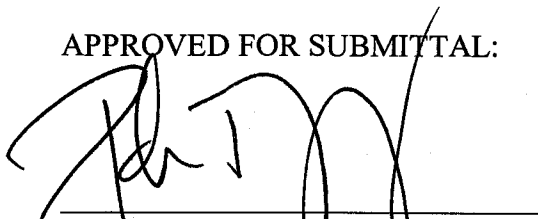
That the Land Board:

1. Amend its prior Board Action of March 11, 2005, item D-1, by approving the re-alignment of the drainage easement on the State's property, identified as Tax Map Key: (1) 3-4-03:Portion of 10, under the terms and conditions described above, and further described in the attached Exhibit "B", subject to:
  - A. The review and approval by the Department of the Attorney General; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a Construction and Maintenance Right-of-Entry to the City and County of Honolulu, covering the revised easement area above and the State's easement area reserved on property identified as Tax Map Key: (1) 3-4-03:37, and being further subject to:
  - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Robert M. Ing,  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

March 11, 2005

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.:03OD-237

Oahu

Quitclaim of State's Interests in a Drainage Easement, Grant of Perpetual, Non-Exclusive Easement, and Construction Right-of-Entry to the City and County of Honolulu, Palolo, Honolulu, Oahu, Tax Map key: (1) 3-4-003:Portions of 10 and 37.

APPLICANT:

City and County of Honolulu, whose business and mailing address is 650 South King Street, 11<sup>th</sup> Floor, Honolulu, Hawaii 96813.

LEGAL REFERENCE:

Sections 171-95(a)(3) and (5), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands and Drainage Easement, situated at Palolo, Honolulu, Oahu, identified by Tax Map Key: (1) 3-4-003:Portions of 10 and 37, as shown on the attached map labeled Exhibit A.

AREA:

Parcel 10- Existing Drainage Easement to be conveyed:  
1,117 Square Feet, more or less, to be determined by survey.

Parcel 37- Perpetual, Non-Exclusive Easement:  
1,769 Square Feet, more or less, to be determined by survey.

ZONING:

Parcels 10 & 37

State Land Use District:  
County of Honolulu CZO:

Urban  
Residential (R-5)

**EXHIBIT "A"**

TRUST LAND STATUS:

Parcel 10: Section 5(b) lands of the Hawaii Admission Act.

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

March 11, 2005

ITEM D-1

DHHL 30% entitlement lands pursuant to the Hawaii  
State Constitution: YES \_\_\_\_\_ NO X

Parcel 37: Privately owned.

CURRENT USE STATUS:

Parcel 10: Encumbered by Homestead Lease No. 17: 5<sup>th</sup> District, to  
Irwin K. Keliipuleole (Deceased). Successor to the  
lease is pending.

Parcel 37: Privately owned with unimproved drainage easement  
reserved to the State.

CONSIDERATION:

Gratis

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was  
published in the OEQC's Environmental Notice on July 23, 2002  
with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS  
standards and at Applicant's own cost.

REMARKS:

Parcel 10:

By Homestead Lease No. 17, a 999-year lease, dated May 9, 1912,  
was awarded to Ms. Haui Naeole over the subject property.  
Following Ms. Naeole's passing, the subject lease was assigned to  
Ms. Irma Haui Iao Keliipuleole, the sole successor at that time.  
In 1987, Irma passed away and the First Circuit Court named her  
son Irwin K. Keliipuleole as successor of HL 17 in 1988.

By Assignment of Lease, dated February 23, 2004, Irwin K.  
Keliipuleole transferred his interest to his wife, Eleonora Edith  
Arioli Keliipuleole. According to his attorney, Irwin passed  
away the following day, on February 24, 2004.

At it's meeting on March 12, 2004, under Item D-12, the Land  
Board consented to the assignment of HL 17 to Eleonora Edith  
Arioli Keliipuleole, pursuant to Sec. 171-99 (e), HRS, on the  
basis that she is a member of the Lessee's family by marriage.

Subsequently, the Attorney General's Office disapproved the request because the assignment document stated the wrong date for the Homestead lease as 1990 instead of 1912. Staff also received a letter from the Native Hawaiian Legal Corporation on behalf of Mrs. Keliipuleole's stepdaughter and daughter of the Assignor, Ms. Shelly Rutt, questioning the legitimacy of the Lessee's assignment document. Further action by the Keliipuleole Family to officially determine a successor to the lease is pending. In the meantime, HL 17 remains with the Estate of Irwin K. Keliipuleole.

The City and County is requesting an easement to install a subsurface drainpipe through the Homestead property in response to a request from the State's tenant, Mrs. Ellie (Eleanor) Keliipuleole, who, on behalf of the Keliipuleole household, wrote to the City and County on August 14, 1995 to request water drainage improvements to alleviate flooding on their homestead property. The County has recognized that the absence of drainage improvements from Pooleka Street is a main source of the drainage problem. The requested easements will be part of a drainage system (see below) that will direct rainwater runoff from Pooleka Street toward Waiomao Stream.

Staff normally inquires with its Lessee's for their consent prior to recommending a grant of easement or other disposition affecting leased property. However, since that is not possible at this time, staff is regarding Mrs. Keliipuleole's letter as consent.

Parcel 37

By Land Patent No. 15,388, dated May 5, 1977, the State conveyed 21,870 square feet of land, which included a 10-foot wide drainage easement reserved to the State. The land was later subdivided and the easement area was assigned to parcel 37.

According to the City, the State was originally responsible for installing drainpipes in the easement area as part of a subdivision requirement prior to conveying the land, but was granted an exemption because it lacked the funds. The responsibility then shifted to the purchaser, but the State did not follow up or require the purchaser to install drainpipes. The interest to the drainage easement remains with the State.

As shown on Exhibit A, parcels 32 and 33 are located between the 2 subject parcels (10 and 37), and were sold with drainage easements reserved to the City. The City didn't install drainpipes on these parcels because there was none on parcel 37.

Meanwhile, properties in the immediate area, including parcel 10, are subject to flooding. Since the County has jurisdiction over water flowage from Pooleka Street, they have secured the funds to

address this problem and is requesting to utilize the State's existing easement. Specifically, drainpipes will be installed on parcel 37 to direct rainwater from Pooleka Street to drainpipes on parcels 32, 33 and 10 before being directed to a grouted riprap directly on the banks of Waiomao Stream. (See Exhibit A).

Because the proposed drainage easements will serve in the public's best interest, staff is recommending the Land Board approve the issuance of a quitclaim of the State's interest in the drainage easement on TMK (1) 3-4-003:Portion 37 to the City, the issuance of a perpetual, non-exclusive easement over State land, identified as TMK (1) 3-4-003:Portion 10, and a construction right-of-entry over the subject areas.

RECOMMENDATION:

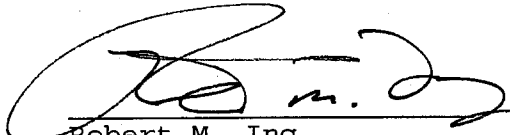
That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above:

- 1.) Authorize a quitclaim of the State's Interests in a Drainage Easement located on property identified as TMK No. (1) 3-4-003:Portion of 37, to the City and County of Honolulu covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current quitclaim of the State's interest form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 2.) Authorize the issuance of a perpetual, non-exclusive easement to the City and County of Honolulu covering the subject area as shown on Exhibit A, including the grouted rip rap area and portion of Waiomao Stream on the State's property, for drainage pipeline purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney

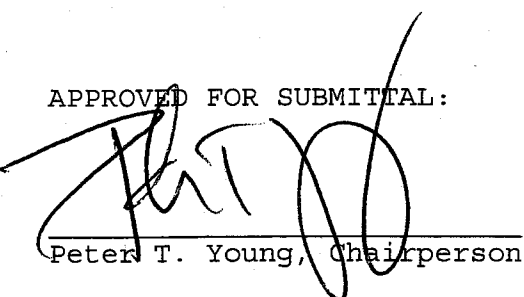
General; and

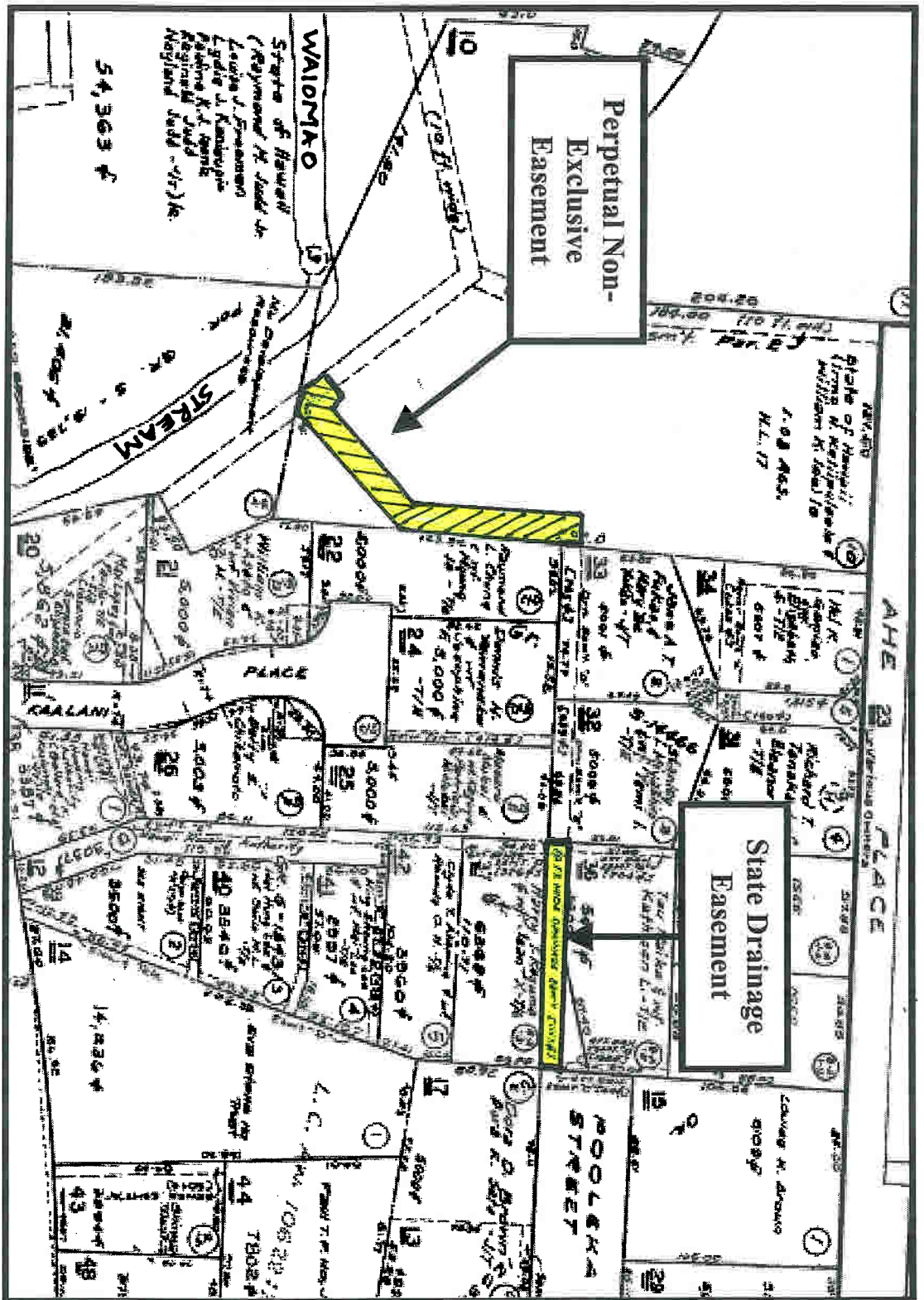
- C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- 3.) Authorize the issuance of a Construction Right-of-Entry to expire one (1) year from the date of issuance, and subject to the following:
  - A. The standard terms and conditions of the most current construction right-of-entry form, as may be amended from time to time; and
  - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
Robert M. Ing,  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson



**EXHIBIT A**

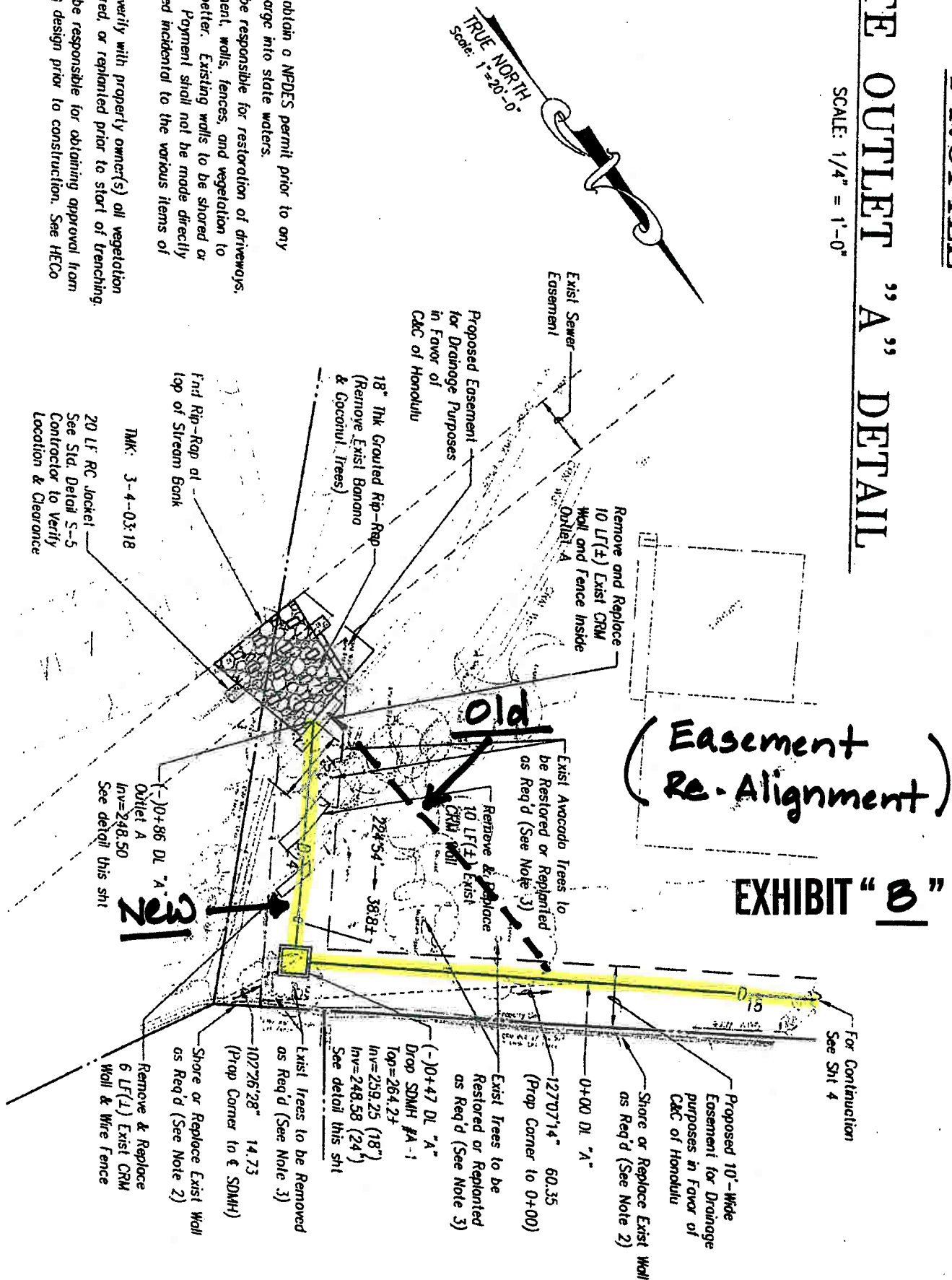
Quitclaim and Perpetual, Non-Exclusive Easement to City & County  
 TMK (1) 3-4-003:Por. 10 and 37



ALTERNATE OUTLET "A" DETAIL

SCALE: 1/4" = 1'-0"

1. The Contractor shall obtain a NPDES permit prior to any dewatering with discharge into state waters.
2. The Contractor shall be responsible for restoration of driveways, curbs, gutters, pavement, walls, fences, and vegetation to original condition or better. Existing walls to be stored or replaced as required. Payment shall not be made directly but shall be considered incidental to the various items of the proposal.
3. The Contractor shall verify with property owner(s) all vegetation to be removed, restored, or replanted prior to start of trenching.
4. The Contractor shall be responsible for obtaining approval from HECo for pole bracing design prior to construction. See HECo Notes Sheet 3.



# PLAN - DRAINLINE "A"

